

ORDINANCE NO. 3871

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE CITY'S OUTDOOR DINING REGULATIONS; PERMITTING BUSINESSES TO PROVIDE OUTDOOR DINING AS A PERMITTED SECONDARY USE IN CERTAIN ZONES WITHOUT OBTAINING A CONDITIONAL USE PERMIT IF CERTAIN CRITERIA ARE MET; ESTABLISHING THE HOURS BY WHICH OUTDOOR DINING IS PERMITTED FOR THOSE BUSINESSES DIRECTLY ADJACENT TO RESIDENTIALLY ZONED PROPERTIES; ADDING A DEFINITION OF "OUTDOOR DINING AREA"; AMENDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTERS 17.75 AND 21.75; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, at the May 25, 2011 Planning Board meeting, staff brought it to the Board's attention that several inquiries had recently been received by the Development Services Department for the establishment and/or expansion of outdoor dining areas; and

WHEREAS, under the current outdoor dining regulations, outdoor dining is permitted outright as a secondary use for an additional 10 percent of the interior seating or eight seats, whichever is greater; and

WHEREAS, under the current outdoor dining regulations, a conditional use permit, which carries with it an application fee of approximately \$1,500.00, is required for businesses that wish to provide outdoor dining in excess of the 10 percent or eight seats; and

WHEREAS, the Planning Board held a public hearing on this issue on July 13, 2011, which was continued to August 10, 2011; and

WHEREAS, after discussion, the Planning Board agreed on a few additional revisions to the draft regulations and then voted to forward the proposed outdoor dining language to the City Council with a recommendation that the council approve the amendments to the outdoor dining regulations of ECDC 17.75 and add the definition of "outdoor dining area" to ECDC 21.75; and

WHEREAS, the revised provisions of the outdoor dining ordinance would allow outdoor dining as a permitted secondary use within the BN, BC, BP, BD, CW, CG, MU and FVMU zones if the outdoor dining area complied with certain criteria, and if the dining area did not comply, only then would a conditional use permit be required; and

WHEREAS, the originally proposed revisions of the outdoor dining ordinance proposed that outdoor dining areas directly adjacent to residentially-zoned properties would be closed between 10:00 pm and 7:00 am; and

WHEREAS, after a public hearing on January 23, 2012, the City Council directed that an ordinance be prepared to adopt the revised outdoor dining regulations, amending the proposed regulations by changing the allowable hours of operation, thereby mandating outdoor dining areas directly adjacent to residentially-zoned properties to be closed between 9:00 pm and 8:00 am; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Amendment to Outdoor Dining Regulations. ECDC chapter 17.75, entitled “Outdoor Dining” is hereby amended to read as set forth in **Attachment A**, which is attached hereto and incorporated herein by this reference (new text is shown in underline; deleted text is shown as strike-through).

Section 2. Adding “Outdoor Dining Area” to Definitions. A new section 21.75.120, entitled “Outdoor dining area,” is hereby added to chapter 21.75 ECDC to read as follows:

21.75.120. Outdoor dining area.

An outdoor dining area is a portion of a property utilized by a licensed food or beverage establishment for the seating of customers for their consumption of food or beverages served by the establishment. An outdoor dining area is not located within a completely enclosed building, but is instead located outside the building, such as on an outdoor patio or deck. The area may be open to the elements or may be covered by a roof or awning or partially enclosed. A portion of a dining area within an enclosed building that is temporarily opened to the outdoors (such as by opening windows, doors, or walls) is not considered to be an outdoor dining area. An outdoor dining area must be located on property outside of the City right-of-way.

Section 3. Severability. If any section, subsection, clause, sentence or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

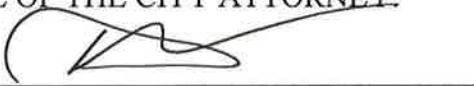
APPROVED:


MAYOR DAVID O. EARLING

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
CITY ATTORNEY, JEFF TARADAY

FILED WITH THE CITY CLERK:	02-03-2011
PASSED BY THE CITY COUNCIL:	02-07-2011
PUBLISHED:	02-12-2011
EFFECTIVE DATE:	02-17-2011
ORDINANCE NO. 3871	

SUMMARY OF ORDINANCE NO. 3871

of the City of Edmonds, Washington

On the 7th day of February, 2012, the City Council of the City of Edmonds, passed Ordinance No. 3871. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE CITY'S OUTDOOR DINING REGULATIONS; PERMITTING BUSINESSES TO PROVIDE OUTDOOR DINING AS A PERMITTED SECONDARY USE IN CERTAIN ZONES WITHOUT OBTAINING A CONDITIONAL USE PERMIT IF CERTAIN CRITERIA ARE MET; ESTABLISHING THE HOURS BY WHICH OUTDOOR DINING IS PERMITTED FOR THOSE BUSINESSES DIRECTLY ADJACENT TO RESIDENTIALLY ZONED PROPERTIES; ADDING A DEFINITION OF OUTDOOR DINING AREA; AMENDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTERS 17.75 AND 21.75; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 8th day of February, 2012.


CITY CLERK, SANDRA S. CHASE

Chapter 17.75 OUTDOOR DINING

Sections:

- 17.75.010 Outdoor dining – Permitted secondary use.
- 17.75.020 Primary uses requiring a conditional use permit.
- ~~17.75.030 Reduction of outdoor seating by existing nonconforming seating.~~
- 17.75.0340 Outdoor dining buildings or structures.

17.75.010 Outdoor dining – Permitted secondary use.

A. Limited outdoor seating for outdoor dining is hereby allowed as a permitted secondary use in the BN – neighborhood business zone, BC – community business zone, BP-planned business zone, BD – downtown business zone, CW – commercial waterfront zone, and CG – general commercial zone, MU – medical use zone, and FVMU – firdale village mixed use zone. When established as a permitted secondary use, the outdoor dining area shall currently comply or be proposed to comply with at least one of the following criteria:

- (1) The site is not directly adjacent to any residentially-zoned property(ies).
- (2) The site complies with the landscaping requirements found in Chapter 20.13 along the property line(s) directly adjacent to residentially-zoned property(ies).
- (3) The dining area is screened from adjoining residential property(ies) by a building and/or a 4-foot wall, hedge, or solid fence.
- (4) Seating shall be is limited to an additional 10 percent of the existing interior seating of the establishment or eight 12 seats, whichever is greater.

B. For sites directly adjacent to residentially-zoned property, the outdoor dining area shall be closed between the hours of 9:00 PM and 8:00 AM.

C. Areas utilized for outdoor dining shall comply with setback requirements applicable to the site.

D. Seating, and shall be located outside of public rights-of-way. Seating within public rights-of-way is reviewed as bistro dining pursuant to the requirements of ECDC 18.70.030.

E. No additional parking stalls shall be required for outdoor dining usage. [Ord. 3628 § 3, 2007; Ord. 3312 § 1, 2000].

17.75.020 Outdoor dining – Secondary Primary uses requiring a conditional use permit.

Outdoor dining not meeting the requirements of ECDC 17.75.010 shall be a primary secondary use requiring a conditional use permit within the zones states in 17.75.010(A). ~~in the BN – neighborhood business zone, BC – community business zone, BD – downtown business zone, CW – commercial waterfront zone, and CG – general commercial zone, for outdoor seating which~~

~~exceeds 10 percent of the existing interior seating in the establishment or more than either seats, whichever is greater.~~ This use shall be established and maintained only in accordance with the terms of a conditional use permit approved by the hearing examiner as a Type III-A decision under the procedural requirements contained in Chapter 20.06 ECDC. At a minimum, the conditions considered for imposition by the hearing examiner may include a restriction on operating hours, location of the outdoor seating, and/or buffering of the noise and visual impacts related to the outdoor dining seating. All seating permitted pursuant to the conditional use permit shall be located outside of public rights-of-way. If outdoor seating is approved under these provisions, no additional parking stalls shall be required for the outdoor dining. [Ord. 3783 § 5, 2010; Ord. 3775 § 5, 2010; Ord. 3736 § 19, 2009; Ord. 3628 § 4, 2007; Ord. 3312 § 1, 2000].

~~17.75.030 Reduction of outdoor seating by existing nonconforming seating.~~

~~An existing eating establishment with nonconforming seating which exceeds the current standards of the city zoning ordinance may utilize outdoor dining as a permitted secondary use or as a primary use requiring conditional use permit; provided, however, that the outdoor seating shall not increase the nonconformity of the establishment. For example, an existing establishment whose interior seating exceeds the normally permitted seating requirement for the zone by four seats, outdoor dining permitted as a secondary use shall be reduced by four seats. Any additional seating shall require a conditional use permit pursuant to the provisions of ECDC 17.75.020. [Ord. 3312 § 1, 2000].~~

17.75.0340 Outdoor dining buildings or structures.

Any building or structure such as a service stand, fence, planter, kiosk, awning or other shelter utilized in serving outdoor diners shall fully comply with all provisions of the State Building Code and this community development code, including but not limited to architectural design approval review. [Ord. 3312 § 1, 2000].

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.

SUMMARY OF ORDINANCE NO. 3871

of the City of Edmonds, Washington
On the 7th day of February, 2012, the City Council of the City of Edmonds, passed Ordinance No. 3871. A summary of the content of said ordinance, consisting of the title, provides as follows:
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE CITY'S OUTDOOR DINING REGULATIONS; PERMITTING BUSINESSES TO PROVIDE OUTDOOR DINING AS A PERMITTED SECONDARY USE IN CERTAIN ZONES WITHOUT OBTAINING A CONDITIONAL USE PERMIT IF CERTAIN CRITERIA ARE MET; ESTABLISHING THE HOURS BY WHICH OUTDOOR DINING IS PERMITTED FOR THOSE BUSINESSES DIRECTLY ADJACENT TO RESIDENTIALLY ZONED PROPERTIES; ADDING A DEFINITION OF OUTDOOR DINING AREA; AMENDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTERS 17.75 AND 21.75; AND ESTABLISHING AN EFFECTIVE DATE.
The full text of this Ordinance will be mailed upon request.
DATED this 8th day of February, 2012.

CITY CLERK, SANDRA S. CHASE

Published: February 12, 2012.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance

No. 3871

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

February 12, 2012

and that said newspaper was regularly distributed to its subscribers during all of said period.

Karen E. Zemon

Principal Clerk

Subscribed and sworn to before me this

day of

February, 2012

Shelly A. Helmer

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

